

Impact and Effectiveness of Credit Report Freezes: Topics for Comment

As part of its strategic plan to make the federal government's efforts more effective and efficient in the areas of identity theft awareness, prevention, detection, and prosecution, the President's Identity Theft Task Force recommended that the FTC, with support from the Task Force member agencies, assess the impact and effectiveness of credit freeze laws and report on the results. According to the Task Force, this assessment will help policymakers in considering whether a federal credit freeze law would be appropriate.

In general, once a consumer initiates a credit freeze with a consumer reporting agency ("CRA"), the freeze prevents that CRA from releasing a consumer report (i.e., a credit report) about that consumer unless the consumer temporarily lifts or permanently removes the freeze. A credit freeze may help prevent identity thieves from opening new accounts in consumers' names, because businesses typically will not extend new credit (or provide certain other benefits) without first viewing the consumer's credit report. Thirty-nine states and the District of Columbia have enacted laws providing consumers the right to place credit freezes and setting forth operational requirements, including how to place, temporarily lift, or permanently remove a freeze, exceptions to the freeze (e.g., for law enforcement), and the associated fees for consumers. In addition, each of the three nationwide CRAs (Equifax, Experian, and TransUnion) is offering a commercially-developed credit freeze option ("CRA-developed freeze option" or "CDFO") to residents of the eleven states that have no credit freeze laws and to all residents of the five states where the right to freeze under state law only applies to identity theft victims.

FTC staff is gathering information regarding the impact and effectiveness of the existing state credit freeze laws, as well as the CDFOs. In order to develop a comprehensive record regarding credit freezes, FTC staff invites interested parties to submit written comments. Comments should be as specific as possible, and include, where possible, studies, surveys, research, cost estimates, and other empirical data. Comments must be received on or before February 25, 2008. Below is a list of specific topics about which FTC staff is interested in learning more, as well as directions on how to submit comments.

Topics for Comment:

I. General

1. To what extent, if any, are credit freezes effective in preventing identity theft? Are there more effective alternatives to freezes for preventing identity theft?
2. What types of identity fraud, if any, are credit freezes effective in preventing, *i.e.*, new account fraud (thief opens new accounts in victim's name), existing account fraud (thief misuses victim's existing accounts), other?
3. How do credit freezes compare to, complement, or detract from rights provided under federal law to consumers to prevent identity theft, such as fraud alerts?

4. Generally, under state laws consumers must place a credit freeze with each CRA separately. How well does this procedure function? Should consumers be able to place a credit freeze with each of the CRAs through a one-call system, similar to that mandated by federal law for placing fraud alerts? What would be the advantages or disadvantages of such a mechanism?
5. Should credit freeze requests be processed through a centralized source, similar to the mechanism that exists under a federally-mandated program to provide free annual credit reports to consumers? What would be the advantages or disadvantages of such a mechanism?
6. Some states limit the right to place a credit freeze to identity theft victims, or waive the placement fees for such victims or for individuals over 65. Should credit freezes be available to all consumers or only certain population groups? Should the placement fees be adjusted or waived for certain population groups?
7. Many state laws enable a consumer to temporarily remove (lift) a credit freeze so that his/her credit report is available to a particular third party or for a specific time period. What are the costs and benefits for consumers and businesses of allowing temporary lifts?
8. The fees charged to consumers for each of the different aspects of the credit freeze mechanism (*e.g.*, placing, temporarily lifting, or permanently removing a freeze) vary from state to state. What fees, if any, should CRAs be allowed to charge consumers for these actions?
9. Many state laws require that CRAs place, temporarily lift, or permanently remove credit freezes within a specified period of time from the initial request, ranging from 15 minutes to several days. What is an appropriate amount of time to allow CRAs to place, temporarily lift, or permanently remove a credit freeze? Is a 15-minute temporary lift requirement operationally feasible? What are the costs and benefits to consumers and businesses of different time periods for temporary lifts?
10. Are there aspects of credit freeze mechanisms that encourage or hinder their use?
11. How do CRA-developed freeze options (CDFOs) compare or differ in practice from credit freezes mandated by state laws?
12. How do credit freezes impact credit scoring or data modeling?

13. What other beneficial or burdensome effects do credit freezes have on consumers, businesses, or the economy in general?

II. Experiences of Consumers*

14. How and from whom do consumers learn about the availability of credit freezes? What are the most effective ways to disseminate information about credit freeze availability?
15. How and from whom do consumers obtain instructions on using freeze mechanisms (*i.e.*, placing, temporarily lifting, or permanently removing)? What are the most effective ways by which consumers can obtain instructions? What information/instructions do consumers need in order to use these mechanisms efficiently?
16. What has been the consumer experience in attempting to place, temporarily lift, or permanently remove a credit freeze? Is the system user-friendly? If not, are there specific ways to improve the system?
17. For what reasons, if any, have consumers permanently removed credit freezes?
18. What mechanisms are used by CRAs to authenticate consumers seeking to place, temporarily lift, or permanently remove credit freezes (*e.g.*, PIN-based authentication)? What are the advantages and disadvantages of each such mechanism?
19. What documentation have CRAs required for identity theft victims to place a credit freeze in those states where freezes are free for victims? What has been the identity theft victim experience in placing a freeze without charge?
20. What actions have CRAs taken to inform consumers of the availability of CRA-developed freeze options, or CDFOs? To what extent are consumers aware of CDFOs?
21. How many consumers in states without credit freeze laws or where the laws only apply to identity theft victims have placed CDFOs?
22. What problems, if any, have consumers experienced in placing, temporarily lifting, or removing credit freezes? For example, have CRAs placed, temporarily lifted, or permanently removed freezes for the incorrect individual or for the wrong time period?

*The designation of questions as relating to “consumer,” “credit report user,” or “consumer reporting agency” experience is for organizational purposes only. Parties should feel free to respond to any and all questions upon which they have comments and/or information regardless of the category in which the question appears.

23. From the consumers' perspective, what are the advantages and disadvantages of federal legislation establishing a nationwide credit freeze system? What provisions should federal credit freeze legislation include?

III. Experiences of Users of Credit Reports

24. How often do users of credit reports ("users"), *i.e.*, business entities with a permissible purpose to access a consumer's credit file, encounter frozen credit reports?
25. When a credit report has been frozen, what information is provided by the CRAs to the user, *i.e.*, the entity requesting the report? If the information provided by the CRAs to the users is not adequate or clear, in what ways can it be improved?
26. What do users do when they cannot access a credit report because the consumer has placed a freeze on it? What should they do? How often do creditors extend credit without first accessing a credit report?
27. What procedures have users implemented to respond to credit freezes? What costs are involved?
28. How has the existence of state credit freeze laws and/or the CDFOs affected specific industries? For example, are freezes reducing the number of credit extensions? Do they provide an early warning regarding fraudulent requests for new credit?
29. What advantages and disadvantages do freezes provide to users?
30. How has the freeze mechanism affected the way a user interacts with the consumer and/or the consumer reporting agencies?
31. Some states require that CRAs develop procedures to enable consumers to temporarily lift the freeze nearly-instantly (e.g., within 15 minutes of receiving the request). What are the advantages and the disadvantages of the nearly-instant lift required in certain states to accommodate a specific consumer-authorized credit transaction?
32. From the user's perspective, do state-mandated credit freezes or CDFOs function differently? For example, does the temporary lift mechanism operate differently in jurisdictions where only CDFOs are available?
33. Have the CRAs implemented a mechanism for users to communicate complaints or operational issues related to freezes? If so, what feedback have the users provided to the CRAs?

IV. Experiences of Consumer Reporting Agencies

34. How many consumers have placed credit freezes nationwide? What is the geographic distribution of the placement of those freezes?
35. How many of the consumers who have placed credit freezes have used CDFOs?
36. How many requests have CRAs received from consumers to temporarily lift state-mandated credit freezes and CDFOs? How many requests have CRAs received from consumers to permanently remove state-mandated credit freezes and CDFOs?
37. Are CDFOs offered to consumers in states with credit freeze laws in effect? If so, what aspects of CDFOs are made available to those consumers?
38. What aspects of state-mandated credit freeze requirements could be improved? What aspects of state-mandated credit freeze requirements would or would not operate well at the federal level?
39. What mechanisms are used by CRAs to authenticate consumers seeking to place, temporarily lift, or permanently remove credit freezes? What are the advantages and disadvantages of each such mechanism?
40. What methods do CRAs use to deliver PIN-based authenticators to consumers? What security safeguards are taken in transmitting PINs to consumers? How many requests have CRAs received for replacement PINs?
41. Can a consumer change the PIN issued by a CRA to one of the consumer's choice? If so, are there restrictions on the PIN selected by the consumer?
42. How and when do CRAs provide instructions to consumers on using the credit freeze mechanisms (*i.e.*, placing, temporarily lifting, or permanently removing)?
43. State laws allow certain entities to access a credit report even if a freeze is in place. How do these exemptions work operationally? For example, do they depend on an automated or manual process to exempt the entity that is seeking access to the consumer's frozen credit report?
44. Some states require that the CRAs develop procedures to enable consumers to temporarily lift the freeze within 15 minutes of receiving the request. Under the procedures developed by the CRAs, how will these nearly-instant lifts for state-mandated credit freezes operate?
45. Do CDFOs have a nearly-instant lift option? If so, how does it differ from the nearly-instant lift option mandated by state systems? Can residents of states with credit freeze laws that do not require nearly-instant lifts use the nearly-instant lift offered in CDFOs?

46. What costs have CRAs incurred in implementing and maintaining a credit freeze system?
47. What problems, if any, have CRAs encountered with respect to credit freezes? How were the problems resolved? What changes, if any, in the credit freeze mechanism could eliminate, reduce or mitigate such problems?
48. From the CRAs' perspective, what are the advantages and disadvantages of federal legislation establishing a nationwide credit freeze system? What provisions should federal credit freeze legislation include?

V. Other

49. Please provide any other comments or information regarding credit freezes that have not been elicited by one of the foregoing questions.

How to Submit Comments:

Written comments may be submitted electronically by clicking on the following Web link: <https://secure.commentworks.com/ftc-CreditReportFreezes> following the instructions on the Web-based form. Comments should refer to "Credit Report Freezes - Comment, Project No. P075420" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex K), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled "Confidential" and must comply with Commission Rule 4.9(c). The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington, D.C., area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including other routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.